

## Chapter 62 SUBDIVISIONS\*



**\*Charter references:** General powers of city, § 25 et seq.

**Cross references:** Any ordinance dedicating or accepting any subdivision plat saved from repeal, § 1-9(9); buildings and building regulations, ch. 14; environment, ch. 26; mobile homes and parks, ch. 38; streets, sidewalks and other public places, ch. 58; utilities, ch. 74; zoning, app. A; changes in zoning at time of plat approval, app. A, art. V, § 40.

**State law references:** Approval of plats by planning board, General City Law, § 33; exemption of lots in approved subdivisions from zoning restrictions, General City Law, § 83-a.

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### Sec. 62-1. Purposes.

It is declared to be the policy of the city that the subdivision and development of land shall be guided and regulated in such a manner as to meet the following requirements for orderly and harmonious growth: The land and proposed development shall be of such character that the subdivision can be used safely without danger to health, peril from fire, flood erosion, excessive noise, air pollution or other menace. To satisfy these objectives, the elements of the proposed subdivision that shall be reviewed during the approval process shall be the adequacy of the following:

- (1) Provisions for utilities such as storm drainage, water supply, sewage, and electricity.
- (2) Streets and sidewalks to provide safe, convenient and functional pedestrian vehicular traffic flow.
- (3) Lot and building layout to provide access to solar radiation, the natural view and air flow, to facilitate fire protection, and to provide ample access for firefighting equipment to all buildings.
- (4) Landscaping to maintain the natural beauty and vegetation of the land.
- (5) Recreational areas within or easily accessible to the subdivision, schools and other community services to meet the needs of future residents.

(Code 1966, § 27-2)

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### Sec. 62-2. Definitions.

For the purpose of this chapter, words and terms used but not defined in this section shall be defined in accordance with appendix A, section 2. The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

**Engineer** means that person designated as city engineer.

**Final plat** means the final map or drawing to exact scale of not more than 100 feet to the inch, certified by a licensed surveyor or civil engineer, on which the proposed subdivision layout is set forth, which when so approved by the planning board and recorded in the county clerk's office establishes the subdivision.

**Master plan** means a comprehensive plan that may be prepared and adopted by the planning board pursuant to General City Law, § 28a, indicating the general locations recommended for the various functional classes of public works, places and structures and for

the general physical development of the city. It shall include any unit or part of such plan separately adopted and any amendment to such plan or parts thereof.

**Official map** means the map that may be established by the common council under General City Law, § 26 showing the streets, highways and parks theretofore laid out, adopted and established by law, and any amendment thereto adopted by the council or additions thereto resulting from the approval of plats by the planning board, and the subsequent filing of such approved plats.

**Preliminary plan** means a tentative subdivision plan, drawn to a scale of not more than 100 feet to the inch, indicating the appropriate proposed layout of the proposed subdivision, to be used for basic study, review and consideration prior to preparation of the final plat.

**Sketch plan** means an informal plan or drawing, not necessarily to exact scale, indicating salient features of a tract of land and its surroundings, and the general layout of a proposed subdivision within such tract.

**Special district** means an entity created by the council in accordance with Charter authority for the purposes of providing a utility or other service to a specified area of the outside corporation district.

**Street** means a public or private way for vehicular traffic, whether designated as a street, highway, thoroughfare, parkway, road, avenue, boulevard, lane, place or alley, which may be more particularly classified as follows:

(1) *Arterial street.* A street used primarily for fast or heavy traffic, usually with complete or partial control over access from abutting property.

(2) *Collector street.* A street carrying traffic from minor streets to a major system of arterial streets.

(3) *Cul-de-sac street.* A minor street with one open end for vehicular and pedestrian access and the other end terminating in a vehicular turnaround.

(4) *Marginal access road.* A minor street parallel to or adjacent to arterial streets which provides access to abutting properties and protection from through traffic.

(5) *Minor street.* A street used primarily for access to or from abutting properties.

(6) *Service drive.* A minor street used primarily for vehicular service access to the rear or side of properties otherwise abutting on a street.

**Subdivision** means a division of any part, parcel or area of land by lots or by metes and bounds description into lots or parcels, three or more in number, within a five-year period, for the purpose of conveyance, transfer, improvement, building development or sale. A subdivision shall not include the division of land, so long as each lot is at least five acres.

(Code 1966, § 27-3)

**Cross references:** Definitions generally, § 1-2.

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### **Sec. 62-3. Sketch plan procedure.**

(a) Whenever any subdivision of land is proposed to be made and before any contract for the sale of such subdivision or any part thereof is made by lot numbers, and before any permit for the erection of a structure shall be granted, the subdivider, the owner thereof or his agent (referred to as "applicant"), shall apply in proper form to the planning board and shall obtain approval of such subdivision as provided in this chapter.

(b) Simultaneously with payment of a fee to the code enforcement officer, such fee listed in the schedule of fees in appendix B to this Code, the applicant shall submit to the planning director and to the engineer a sketch plan of the proposed subdivision. Each such officer shall thereupon schedule a date for a conference with the applicant for review of the sketch plan and for discussion of possible changes or modifications, such conference to be scheduled within 30 days from the date of sketch plan submittal. Within 60 days from the date of the conference, the sketch plan shall be placed on the agenda of the planning board, unless the applicant waives this time requirement.

(c) Sketch plan approval shall expire one year following the date of such initial approval by the planning board; extensions of time may be obtained upon request by the applicant for preliminary plat approval.

(Code 1966, § 27-4)

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#### **Sec. 62-4. Preliminary plan procedure.**

(a) The subdivision preliminary plan, topographic map, street profiles and all supplemental materials shall, in all respects, be in full compliance with the provisions of General City Law, §§ 32, 33 and 34 and this chapter.

(b) After having obtained sketch plan approval from the planning board and for the purpose of obtaining preliminary plan approval, the applicant shall submit to the planning board 15 copies of the preliminary plan, topographic map, street profiles and all supplemental materials. The planning board shall then study the preliminary plan and proposed street profiles in connection with the topography of the area, the existing requirements of the community and the best use of the land to be subdivided. Particular attention shall be given to the matters enumerated in General City Law, § 33, as well as to specific requirements for parks, playgrounds, school sites, boulevards and main thoroughfares, the adequacy of street connections, and the suitability of the land for development.

(c) After arriving at tentative conclusions, the planning board shall discuss the preliminary plan with the applicant at a meeting of the planning board. After such discussion, the planning board shall state in writing to the applicant:

- (1) The specific changes the planning board will require in the preliminary plan;
- (2) The character and extent of the required public improvements;
- (3) Those improvements for which waivers may have been requested and which, in the planning board's opinion, may be waived without jeopardy to the public health, safety, and general welfare; and

- (4) The amount of construction of the improvements or, in the alternative, the amount of the performance bond therefor it will require as prerequisite to final plat approval.

(d) Approval of the preliminary plan by the planning board may not be revoked unless, following preliminary plan approval, substantial evidence is presented indicating significant change in the character of the area at or about the proposed subdivision, or unless information obtained following preliminary plan approval is presented indicating the unsuitability of development in accordance with the subdivision proposal.

(e) Preliminary plan approval shall expire one year following the date of such initial approval by the planning board; extensions of time may be obtained for up to one year upon reasonable cause shown by the applicant, or upon request by the applicant for final plat approval and submission of items required for such approval per section 62-5.

(Code 1966, § 27-5)

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### **Sec. 62-5. Final plat procedure.**

(a) The applicant, after official notification by the planning board with respect to the subdivision preliminary plan review and the changes, if any, to be made, shall within 12 months thereafter file with the planning board five prints and one cloth copy of the original drawings of the formal subdivision plat and street profiles. These drawings shall be on sheets not more than 27 inches wide by 35 inches long and to a scale of not more than 100 feet to the inch. When more than one sheet is required, an additional index sheet of the same size shall be filed showing to approximate scale the entire subdivision on one sheet with lot and block numbers.

(b) The final plat shall conform to the approved preliminary plan and, if requested by the applicant, such final plat may entail merely a portion of the approved preliminary plan, such final plat comprising that portion the applicant proposes to record and develop at that time.

(c) Simultaneously with submission of the final plat to the planning board, the applicant shall also submit the following:

(1) A certificate from the engineer that the proposed public improvements and utilities to be constructed by the applicant per the final plat submitted meet the minimum standards required by law.

(2) A performance bond issued by a bonding or surety company approved by the corporation counsel or provided by the applicant with security acceptable to the common council, and approved by the corporation counsel as to form, sufficiency and manner of execution; such performance bond to ensure proper completion of construction of public improvements and utilities in accordance with the final plat.

(3) A deed and such other legal documents required to transfer land within the subdivision to the city for dedication as streets, highways, easements, parks or other public utilities and facilities; such documents as required by and to be approved by the corporation counsel.

(d) Prior to approval of the final plat, a public hearing shall be held by the planning board, which hearing shall be advertised at least once in the official newspaper of the city before such hearing.

(e) Within 45 days of submission of the final plat and other materials and documents as required in this section, the planning board shall review and act to approve, to modify and approve, or to disapprove the plat. If the plat is approved, the planning board shall make an appropriate notation to such effect on the face of the original drawings or on the cloth copy of the plat; if modified and approved, the planning board shall advise the applicant in writing of approval subject to submission of certain specified modifications in the plat; if disapproved, the planning board shall advise the applicant in writing of the grounds for such action.

(f) Approval of the final plat shall expire 90 days from the date of approval unless, within such period, the approved plat shall have been recorded in the office of the county clerk.

(g) The planning board may permit the final plat to be divided into two or more sections, each section to encompass at least ten percent of the total number of lots shown on the final plat, subject to such conditions necessary to ensure orderly development of the subdivision. Approval of the sections shall be granted concurrently with the approval of the plat. The approved sections shall be recorded in the office of the county clerk within the same time period specified for the final plat.

(h) Within 30 days from the recording of the final plat or approved section thereof, the applicant shall file with the planning board a certified copy thereof.

(Code 1966, § 27-6(a)--(d), (f)--(i))

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**State law references:** Procedure for subdivision approval, General City Law, § 33.